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OFFICE OF PETITIONS

In re Application of :
Samir S. Soliman :
Application No. 10/672,824 : DECISION ON PETITION
Filed: April 26, 2004 :
Attorney Docket No. 010124C1 :
:

This is a decision on the petition filed December 27, 2005, to accord the above-identified application a filing date of September 26, 2003.

Petitioner states that the present application is a continuation of Application No. 10/011,965, filed November 5, 2001. Petitioner explains the above-identified application was deposited on September 26, 2003. On March 31, 2004, the Office mailed a Notice to File Missing Parts of Nonprovisional Application, indicating that the oath or declaration and Figure 1 appeared to have been omitted. In response, on April 23, 2004, petitioner submitted a declaration, power of attorney, a copy of Figure 1, and the requisite fees. Thereafter, the application was accorded the filing date of April 23, 2004. Petitioner asserts that Figure 1 was not omitted on filing because it was incorporated by reference from the prior application pursuant to 37 CFR 1.57(a).

The Office reminds petitioner that 37 CFR 1.57(a) became effective on September 21, 2004, and applies to applications filed on or after that date. Therefore, an application that inadvertently omits material must have been filed on or after September 21, 2004 in order for 37 CFR 1.57(a) to apply. MPEP 201.17(II)(A). The mere reference to another application, patent, or publication is not an incorporation of anything therein into the application containing such reference. MPEP 608.01(p).

In this instance, 37 CFR 1.57(a) does not apply as this application was filed before September 21, 2004. Moreover, the application as filed does not contain any explicit incorporation by reference statement.

Accordingly, the petition is dismissed. The \$400.00 petition fee will be charged to the Deposit Account because the filing of the present petition was not due to any error on the part of the USPTO.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3211.

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